

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**IN RE: METHYL TERTIARY BUTYL
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION**
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**CASE MANAGEMENT
ORDER #79**

This document relates to:

**Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88**

All Cases
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SHIRA A. SCHEINDLIN, U.S.D.J.:

This Order memorializes the rulings made during the status conference held on November 23, 2010.

1. *Commonwealth of Puerto Rico*: Each party will choose twenty (20) focus sites for discovery. The parties shall propose the focus sites in two waves – *i.e.*, both parties will propose twelve (12) sites on one date and then both parties will propose eight (8) additional sites on a later date. The parties will meet and confer to discuss the number of trial sites and will propose an amendment to the discovery schedule in CMO #65 to accommodate the staggered selection of focus sites.
2. *Orange County Water District*: A pre-motion conference for plaintiff's motion for partial summary judgment is scheduled for December 16, 2010 at 2:30 p.m. Plaintiff's pre-conference letter is due on December 8, 2010;

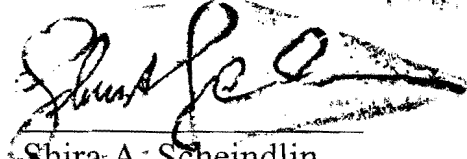
defendants' reply letter is due December 13, 2010. The page limit for both letters is five (5) pages.

3. *Crescenta Valley*: The Hamner Institute is directed to supply plaintiffs with data from its MTBE study in Excel format. The Hamner Institute will provide plaintiff with a progress report by December 6, 2010 explaining the time frame of production and any issues that may have arisen. The Hamner Institute will also provide an affidavit from a representative from Instem concerning which data, if any, it was unable to export.
4. *New Jersey Department of Environmental Protection*:
 - A. Parties will submit a proposed CMO governing discovery, experts, pre-trial, and trial matters by February 28, 2011.
 - B. Defendants will be permitted to take up to eighteen (18) depositions of NJDEP case managers for defense focus sites in anticipation of trial site selection. These depositions will be limited to seven (7) hours in duration, and will take place in Trenton, New Jersey.
 - C. Defendants are directed to provide plaintiffs with a revised list of possible topics for the proposed deposition of a witness from the Office of Natural Resource Restoration. If the parties still cannot agree, they are referred to Special Master Warner to resolve the dispute.

- D. The parties are directed to disclose the criteria they used to identify the receptors impacted by release sites by December 6, 2010.
 - E. By December 13, 2010, plaintiffs will provide defendants with the number of private wells on each street that plaintiffs have identified as impacted by plaintiffs' release sites.
 - F. The parties are directed to exchange proposed keywords for the search of case managers' emails by December 2, 2010; to meet and confer regarding the proposed keywords by December 8, 2010; and any dispute over the keywords is referred to Special Master Warner, to be resolved by December 15, 2010. Plaintiffs will then propose a schedule for production of case manager emails to defendants by December 20, 2010.
 - G. The parties are each directed to select their ten (10) trial sites by February 1, 2011.
 - H. Defendants are directed to submit, by December 6, 2010, a list of ten (10) individuals whose hard drives they propose to search for the purpose of sampling.
5. *Village of Bethalto, Town of Kouts, Coraopolis*: Plaintiffs shall have until December 31, 2010 to file amended complaints. Defendants will have thirty (30) days after the amended complaints are filed to file a motion to dismiss

or to answer.

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Shira A. Scheindlin', written over a horizontal line.

Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
December 1, 2010

-Appearances-

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